

BEFORE THE POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

COMMUNITY ASSOCIATION FOR)
RESTORATION OF THE ENVIRONMENT)
("CARE"),)

Appellants,)
vs.) PCHB No. 06-057

STATE OF WASHINGTON, DEPARTMENT)
OF ECOLOGY,)
Respondent.)

NORTHWEST DAIRY ASSOCIATION,)
WASHINGTON STATE DAIRY FEDERATION,)
WASHINGTON CATTLEMEN'S ASSOCIATION,)
WASHINGTON CATTLE FEEDERS)
ASSOCIATION, NORTHWEST POULTRY)
INDUSTRIES COUNCIL,)

Intervenors.)

TRANSCRIPT OF PROCEEDINGS

DAY THREE

May 2, 2007
Lacey, Washington

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BE IT REMEMBERED that a hearing was held in the
above-entitled matter before the Pollution Control
Hearings Board of the State of Washington on May 2, 2007,
at the Environmental Hearings Office, 4224 Sixth Avenue
Southeast, Building No. 2, Lacey, Washington.
Sitting as the Pollution Control Hearings Board
were Board Members ANDREA McNAMARA DOYLE, Presiding; Board
Chair WILLIAM H. LYNCH; and Board Member KATHLEEN MIX.

A P P E A R A N C E S

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<p style="text-align: right;">Page 711</p> <p>1 Q Did you make calculations for different size 2 lagoons? 3 A Yes. 4 Q And what size lagoons did you use in your 5 calculations? 6 A Three, 10 and 20 billion. 7 Q Let's pick the middle of those three. What was 8 your calculations for the designed -- or allowed, 9 if you will, I guess is the better way to say it -- 10 the allowed leakage rate under the NRCS standard 11 for a 10-million-gallon lagoon? 12 Do you need to have that calculation sheet in 13 front of you? 14 A It would be helpful. 15 Q Sorry. I believe that's in the intervenor's list. 16 Let me just find it here. It's in the black book, 17 I-79. 18 MR. TUPPER: Your Honor, what exhibit 19 was that? 20 MS. DOYLE: I believe he said I-79. 21 MR. TUPPER: Thank you. 22 MR. TEBBUTT: Your Honor, I believe, 23 if I'm correct, that I-79 is already in evidence. 24 MS. DOYLE: I believe you're correct. 25 Yes.</p>	<p style="text-align: right;">Page 713</p> <p>1 year? 2 A And it was at 10 foot the rest of the year, it 3 would be three-quarters of that number. So 2.6, it 4 would be, I don't know, 1.8, something like that. 5 Q Okay. What if the level, the start elevation, was 6 five feet in a 10-million-gallon lagoon; how would 7 that affect the calculation? 8 A Well, I remember what it is for four. 9 Q All right. Well, give us four, then. 10 A Which was an attempt to average it out over the 11 year, and that comes out to about 2.2 million 12 gallons in a year. 13 Q All right. So the other calculations you made are 14 provided in Exhibit 79, correct? 15 A The more recent ones are not, no. 16 Q Okay. 17 MR. TEBBUTT: That's all I have at 18 this time. 19 Thank you. 20 MS. DOYLE: Cross examination for this 21 witness? 22 MR. TUPPER: Your Honor, I'll go 23 first. 24 MS. DOYLE: Mr. Tupper. 25 MR. TUPPER: Thank you.</p>
<p style="text-align: right;">Page 712</p> <p>1 Q (Continuing by Mr. Tebbutt) Sir, are these the 2 calculations that you made assuming the NRCS 3 allowable leakage calculations? 4 A Yes. There's some of them, after more recently you 5 asked me to do shallower depths, which I did. 6 Q Describe for us the amount of leakage that would 7 occur from a 10-million-gallon lagoon with a start 8 elevation of 10 feet. 9 A It would be about 2.7 million gallons. 10 Q Per year? 11 A Per year. 12 Q Okay. And what are the assumptions that go into 13 that calculation? 14 A That the lagoon was square, that the side slopes 15 were, per the NRCS, I think 2-to-1, that you held 16 it at 10 feet, and that the permeability -- oh, you 17 didn't use the permeability. This was the 18 eighth-inch calculation. You lost an 19 eighth-of-an-inch every day, which is what the NRCS 20 says you can lose. 21 Q That's assuming a 10-foot elevation depth 22 constantly throughout the year? 23 A Yes. 24 Q And what if the lagoon was empty for a couple 25 months of the year, let's say three months of the</p>	<p style="text-align: right;">Page 714</p> <p>1 EXAMINATION 2 _____ 3 BY MR. TUPPER: 4 Q Dr. Bell, good to talk with you again. We spoke on 5 the phone. I'm James Tupper. 6 A Hi. It's nice to put a face to a voice. 7 Q Same, likewise. 8 I want to start with groundwater monitoring, 9 Dr. Bell. In your own experience with CAFOs, it's 10 not necessary to have groundwater monitoring to 11 assess the potential risk to groundwater from a 12 CAFO operation; isn't that true? 13 A That's a good question. I wish I had the results 14 of the study that's ongoing, but the risk rating 15 analysis that is being done as a result of the 16 waterkeeper issue in North Carolina for groundwater 17 includes the use of all available groundwater 18 monitoring data. 19 Q Well, let's talk about that. You were a consultant 20 for an environmental group in litigation against 21 Murphy Brown, which is now Smithfield, in North 22 Carolina, and that involved over 359 separate farms 23 owned by the same company, correct? 24 A Yes. 25 Q And you were involved in the settlement discussions in that litigation, correct?</p>